IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4915 OF 2004

Smt. Ramaben Moolshankar Sharma ... Applicant

versus

Mr. Sukhendu Bikash Bhattacharya

and another ... Respondents

...

WITH

CRIMINAL APPLICATION NO. 4916 OF 2004

Smt. Nina Vikram Naik ... Applicant

versus

Mr. Sukhendu Bikash Bhattacharya

and another ... Respondents

...

Mr. S.V. Marwadi, for the Applicant in both Criminal Applications.

...

CORAM : A.M.KHANWILKAR,J.

24th November 2004

P.C.:

. These petitions are misconceived. On the

arguments of the Applicants themselves, the proceedings for recovery of wages is not a criminal action as such, but the summary procedure provided by the provisions of the Merchant Shipping Act, 1958. If it is so, there is no question of quashing the said proceedings.

. The next argument on behalf of the Applicants is that the Court below has issued non-bailable warrants. It is argued that if the proceedings pending before the Court below is not a criminal action, the question of issuing non-bailable warrants does not arise. This submission does not commend to me. Even if the proceedings pending before the trial Court cannot be strictly said to be a criminal action, but they are summary proceedings by virtue of section 145 of the Merchant Shipping Act, 1958, for recovery of wages. If the Applicants, who are impleaded in the said proceedings, being Directors of the Company, if liable to pay the amount to the applicant in the pending action, the Court is competent to issue such order, so as to ensure presence of the Applicants in the said proceedings. Whether the personal presence of the Applicants should be dispensed with or not is

a matter which can be considered by the trial Court. In the circumstances, these Applications are disposed of with liberty to the Applicants to approach the trial Court for appropriate directions, if so advised. If such application is filed, the same will be decided by the concerned Court on the date of presentation. That be done within one week. Till such time, the Applicants shall not be arrested.

(A.M.KHANWILKAR,J.)